

CAUSE NO. 53526

COTI MATTHEWS, on behalf of her minor child, MACY MATTHEWS; RACHEL DEAN, on behalf of her minor child, REAGAN DEAN; CATHIE FLOWER, on behalf of her minor child, KENNEDY FLOWER; ELIZABETH O. HADNOT, on behalf of her minor child, T=MIA HADNOT; KIM HAYNES, on behalf of her minor child, ADRIANNA HAYNES; RHONDA KEMP, on behalf of her minor child, MORGAN DEROUEN; CHARLES & CHRISTY LAWRENCE, on behalf of their minor Child, ASHTON LAWRENCE; PATTY LEDOUX, on behalf of her minor child, KAYLEE LEDOUX; TESSANDRA McDANIEL, on behalf of her minor child, TEYONCE McDANIEL; TONYA MOFFETT, on behalf of her minor child, KIEARA MOFFETT; BRETT PAGE, on behalf of his minor child, CASSANDRA PAGE; BETH RICHARDSON, on behalf of her minor child, REBEKAH RICHARDSON;

IN THE DISTRICT COURT  
HARDIN COUNTY, TEXAS  
356<sup>th</sup> Judicial District

SHYLOA SEAMAN,  
and on behalf of her minor child,  
AYIANA GALLASPY;  
MISTY SHORT,  
on behalf of her minor child  
SAVANNAH SHORT; and  
PATRICE SONNIER,  
on behalf of her minor child  
NAHISSAA BILAL

Plaintiffs,

v.

KOUNTZE INDEPENDENT  
SCHOOL DISTRICT and KEVIN  
WELDON, in his individual and  
official capacity as Superintendent,

Defendants.

**PLAINTIFFS' FIRST AMENDED PETITION,  
APPLICATION FOR TEMPORARY INJUNCTION, AND  
APPLICATION FOR PERMANENT INJUNCTION**

TO THE HONORABLE COURT:

Plaintiffs, Coti Matthews, on behalf of her minor child, Macy Matthews; Rachel Dean, on behalf of her minor child, Reagan Dean; Cathie Flower, on behalf of her minor child, Kennedy Flower; Elizabeth O. Hadnot, on behalf of her minor child, T'mia Hadnot; Kim Haynes, on behalf of her minor child, Adrianna Haynes; Rhonda Kemp, on behalf of her minor child, Morgan DeRouen; Charles & Christy Lawrence, on behalf of their minor child, Ashton Lawrence; Patty LeDoux, on

behalf of her minor child, Kaylee LeDoux; Tessandra McDaniel, on behalf of her minor child, Teyonce McDaniel; Tonya Moffett, on behalf of her minor child, Kieara Moffett; Brett Page, on behalf of his minor child, Cassandra Page; Beth Richardson, on behalf of her minor child, Rebekah Richardson; Shyloa Seaman, on behalf of her minor child, Ayiana Gallaspy; Misty Short, on behalf of her minor child, Savannah Short; and Patrice Sonnier, on behalf of her minor child, Nahissaa Bilal, complain of Defendants, Kountze Independent School District (hereinafter “KISD”) and its Superintendent, Kevin Weldon, and for cause of action show:

## **I. DISCOVERY PLAN**

1.1 Discovery is intended to be conducted under Level 3 as set forth in Rule 190 of the Texas Rules of Civil Procedure.

## **II. PARTIES**

2.1 Plaintiff, COTI MATTHEWS, is a legal adult over the age of eighteen (18), who resides in Kountze, Texas. She is a taxpayer and qualified voter residing within the boundaries of KISD. She brings this suit on behalf of her minor child, MACY MATTHEWS.

2.2 MACY MATTHEWS is a minor under the age of eighteen (18), the daughter of COTI MATTHEWS, and a student and varsity cheerleader at Kountze High School, a KISD school.

2.3 Plaintiff RACHEL D EAN is a legal adult over the age of eighteen (18), who resides in Kountze, Texas. She is a taxpayer and qualified voter residing within the boundaries of KISD. She brings this suit on behalf of her minor child, REAGAN DEAN.

2.4 REAGAN DEAN is a minor under the age of eighteen (18), the daughter of RACHEL DEAN, and a student and cheerleader at Kountze Middle School, a KISD school.

2.5 Plaintiff CATHIE FLOWER is a legal adult over the age of eighteen (18), who resides in Kountze, Texas. She is a taxpayer and qualified voter residing within the boundaries of KISD. She brings this suit on behalf of her minor child, KENNEDY FLOWER.

2.6 KENNEDY FLOWER is a minor under the age of eighteen (18), the daughter of CATHIE FLOWER, and a student and cheerleader at Kountze Middle School, a KISD school.

2.7 Plaintiff ELIZABETH O. HADNOT is a legal adult over the age of eighteen (18), who resides in Kountze, Texas. She is a taxpayer and qualified voter residing within the boundaries of KISD. She brings this suit on behalf of her minor child, T'MIA HADNOT.

2.8 T'MIA HADNOT is a minor under the age of eighteen (18), the daughter of ELIZABETH O. HADNOT, and a student and varsity cheerleader at Kountze High School, a KISD school

2.9 Plaintiff KIM HAYNES is a legal adult over the age of eighteen (18), who resides in Kountze, Texas. She is a taxpayer and qualified voter residing within the boundaries of KISD. She brings this suit on behalf of her minor child, ADRIANNA HAYNES.

2.10 ADRIANNA HAYNES is a minor under the age of eighteen (18), the daughter of KIM HAYNES, and a student and varsity cheerleader at Kountze High School, a KISD school.

2.11 Plaintiff RHONDA KEMP is a legal adult over the age of eighteen (18), who resides in Kountze, Texas. She is a taxpayer and qualified voter residing within the boundaries of KISD. She brings this suit on behalf of her minor child, MORGAN DEROUEN.

2.12 MORGAN DEROUEN is a minor under the age of eighteen (18), the daughter of RHONDA KEMP, and a student and varsity cheerleader at Kountze High School, a KISD school.

2.13 Plaintiffs CHARLES & CHRISTY LAWRENCE are legal adults over the age of eighteen (18), who reside in Kountze, Texas. They are taxpayers and

qualified voters residing within the boundaries of KISD. They bring this suit on behalf of their minor child, ASHTON LAWRENCE.

2.14 ASHTON LAWRENCE is a minor under the age of eighteen (18), the daughter of CHARLES & CHRISTY LAWRENCE, and a student and varsity cheerleader at Kountze High School, a KISD school.

2.15 Plaintiff PATTY LEDOUX is a legal adult over the age of eighteen (18), who resides in Kountze, Texas. She is a taxpayer and qualified voter residing within the boundaries of KISD. She brings this suit on behalf of her minor child, KAYLEE LEDOUX.

2.16 KAYLEE LEDOUX is a minor under the age of eighteen (18), the daughter of PATTY LEDOUX, and a student and cheerleader at Kountze Middle School, a KISD school.

2.17 Plaintiff TESSANDRA MCDANIEL is a legal adult over the age of eighteen (18), who resides in Kountze, Texas. She is a taxpayer and qualified voter residing within the boundaries of KISD. She brings this suit on behalf of her minor child, TEYONCE MCDANIEL.

2.18 TEYONCE MCDANIEL is a minor under the age of eighteen (18), the daughter of TESSANDRA MCDANIEL, and a student and cheerleader at Kountze Middle School, a KISD school.

2.19 Plaintiff TONYA MOFFETT is a legal adult over the age of eighteen (18), who resides in Kountze, Texas. She is a taxpayer and qualified voter residing within the boundaries of KISD. She brings this suit on behalf of her minor child, KIEARA MOFFETT.

2.20 KIEARA MOFFETT is a minor under the age of eighteen (18), the daughter of TONYA MOFFETT, and a student and varsity cheerleader at Kountze High School, a KISD school.

2.21 Plaintiff BRETT PAGE is a legal adult over the age of eighteen (18), who resides in Lumberton, Texas. He is a taxpayer and qualified voter residing within the boundaries of KISD. He brings this suit on behalf of his minor child, CASSANDRA PAGE.

2.22 CASSANDRA PAGE is a minor under the age of eighteen (18), the daughter of BRETT PAGE, and a student and varsity cheerleader at Kountze High School, a KISD school.

2.23 Plaintiff BETH RICHARDSON is a legal adult over the age of eighteen (18), who resides in Kountze, Texas. She is a taxpayer and qualified voter residing within the boundaries of KISD. She brings this suit on behalf of her minor child, REBEKAH RICHARDSON.

2.24 REBEKAH RICHARDSON is a minor under the age of eighteen (18), the daughter of BETH RICHARDSON, and a student and varsity cheerleader at Kountze High School, a KISD school.

2.25 Plaintiff SHYLOA SEAMAN is a legal adult over the age of eighteen (18), who resides in Kountze, Texas. She is a taxpayer and qualified voter residing within the boundaries of KISD. She brings this suit on behalf of her minor child, AYIANA GALLASPY.

2.26 AYIANA GALLASPY is a minor under the age of eighteen (18), the daughter of SHY RICHARDSON, and a student and cheerleader at Kountze Middle School, a KISD school.

2.27 Plaintiff MISTY SHORT is a legal adult over the age of eighteen (18), who resides in Kountze, Texas. She is a taxpayer and qualified voter residing within the boundaries of KISD. She brings this suit on behalf of her minor child, SAVANNAH SHORT.

2.28 SAVANNAH SHORT is a minor under the age of eighteen (18), the daughter of MISTY SHORT, and a student and varsity cheerleader at Kountze High School, a KISD school.

2.29 Plaintiff PATRICE SONNIER is a legal adult over the age of eighteen (18), who resides in Kountze, Texas. She is a taxpayer and qualified voter residing

within the boundaries of KISD. She brings this suit on behalf of her minor child, NAHISAA BILAL.

2.30 NAHISAA BILAL is a minor under the age of eighteen (18), the daughter of PATRICE SONNIER, and a student and varsity cheerleader at Kountze High School, a KISD school.

2.31 Defendant KOUNTZE INDEPENDENT SCHOOL DISTRICT is an independent school district authorized by and constituting a political subdivision or agency of the State of Texas. KISD is a public corporation authorized by the Constitution and laws of the State of Texas, and operates public schools in the city of Kountze, Texas. Plaintiffs request that service of process be issued upon Defendant KISD by serving its Superintendent, Kevin Weldon, at the central office of KISD, 160 West Vaughn Street, Kountze, Texas 77625.

2.32 Defendant KEVIN WELDON was at all material times the acting Superintendent and administrator of KISD. Defendant Weldon acted in his individual capacity and in his official capacity as Superintendent of KISD. Defendant Weldon is sued in his individual and official capacities for the actions and conduct that he engaged in as alleged herein. Plaintiffs request that service of process be issued upon Defendant Weldon, who may be served as his place of employment, the central office of KISD, 160 West Vaughn Street, Kountze, Texas 77625.

### **III. JURISDICTION**

3.1 This Court has subject matter jurisdiction over this action because the amount in controversy exceeds the minimum jurisdictional limits of the court exclusive of interest and Plaintiff seeks relief that can be granted by either courts of law or equity.

3.2 This Court has jurisdiction over this lawsuit and the parties herein and is jurisdictionally competent to render judgment in this matter.

3.3 The amount in controversy and the relief sought are within the jurisdictional limits of the Court. This Court is authorized to grant Plaintiffs' prayer for relief regarding costs, including Plaintiffs' reasonable attorneys' fees.

3.4 This Court is a court of law and equity.

### **IV. VENUE**

4.1 Venue of this action is proper in Hardin County under Texas Civil Practice & Remedies Code § 15.001 *et. seq.* because all or a substantial part of the events or omissions giving rise to Plaintiffs' claims occurred in Hardin County.

### **V. FACTUAL ALLEGATIONS**

#### ***A. Status of Student Plaintiffs***

5.1 At all material times Plaintiffs Macy Matthews, T'Mia Hadnot, Adrianna Haynes, Morgan Derouen, Ashton Lawrence, Kieara Moffett, Rebekah Richardson, Ayiana Gallaspy, Savannah Short, and Nahissaa Bilal ("Plaintiff

Cheerleaders") have been properly enrolled as students at Kountze High School, a school operated by and a part of KISD.

5.2 At all material times the Plaintiff Cheerleaders have been participating as cheerleaders at KISD.

5.3 Each of the Plaintiff Cheerleaders is an adherent of the Christian faith and holds sincere religious beliefs concerning the expression of her Christian faith.

***B. The Cheerleading Team at KISD and Plaintiff Cheerleaders' Speech on "Run-through" Banners***

5.4 Cheerleading is a non-curriculum-related activity at Kountze High School.

5.5 There is no cheerleading class, and students do not receive class credit or any grade for their participation on the cheerleading team. Because cheerleading is a non-curriculum-related activity, it is not intended to impart knowledge or skills on the students; instead, it is a fun activity that encourages school spirit.

5.6 All cheerleading practices take place on the participants' own time, either during the summer months or after a school day. Cheerleading practice never takes place during school or instructional hours.

5.7 The cheerleaders are selected with neutral criteria without the involvement of any school official. On an annual basis, any student who wishes to try out for the team may sign up for tryouts. Lamar University Cheerleaders serve

as judges to select the team. Lamar University Cheerleaders are used to ensure that the selection process is impartial. Selection on the team is in no way tied to the students' grades or performance in any class. No school official is involved in the selection process.

5.8 The cheerleading team is student-led and student-run. Each week, two to three different cheerleaders will lead practice, direct the making of any banners, and lead any other activities for the team, like planning pep rallies. The cheerleaders take turns leading the team each week.

5.9 The cheerleaders purchase their own uniforms with private funds.

5.10 Two faculty "sponsors," Tonya Moffett and Beth Richardson, who are also parents of two cheerleaders, supervise the team to ensure a safe, respectful, and orderly environment. The faculty sponsors are present at the practices in only a nonparticipatory, custodial capacity.

5.11 Because the team is student-led and student-run, the faculty sponsors do not direct or coach the cheerleaders and do not participate in the making of any of the run-through banners.

5.12 One of the activities of the cheerleading squads at Kountze High School is the production and use of a "run-through" banner, measuring approximately 30 feet wide x 10 feet high, which is traditionally held up by the

cheerleaders for the football team to charge through as the players enter the field before each game. ?

5.13 Run-through banners are not required by the school. The cheerleaders voluntarily choose to make them as an encouragement to the athletes and fans.

5.14 All materials used to produce the run-through banners, which consist of banner paper and paint supplies, have been purchased with private funds.

5.15 No school funds are used to purchase the supplies for the cheerleaders' run-through banners.

5.16 The long tradition of the cheerleading squads producing the run-through banners goes back at least two decades, although throughout the years, the messages on the banners have varied.

5.17 The cheerleaders in charge of practice each week, in conjunction with the rest of the team, decide what message to put on each banner.

5.18 No faculty sponsors or any other school official have control over the content or message of each run-trough banner, aside from ensuring that the message does not violate school policy contained in FNA(LOCAL) and FNA(LEGAL), attached hereto as Exhibit A. This policy provides that any student messages may not: be obscene, vulgar, offensively lewd, or indecent; likely result in a material and substantial interference with school activities or the rights of others; promote illegal drug use; violate the intellectual property rights, privacy

rights, or other rights of another person; contain defamatory statements about public figures or others; or advocate imminent lawless action or are likely to incite or produce such action.

5.19 The run-through banners do not contain the school or district's name.

5.20 The run-through banners are always made by the cheerleaders during non-school hours, such as after school or during the summer months.

5.21 The content of each banner is decided solely by the cheerleaders themselves and is purely student-led, student-initiated, private speech. The messages on the banners are the students own words and are intended to address the audience.

5.22 In previous years, messages on the run-through banners typically included negative language about opposing teams, such as "Scalp the Indians" and "Pluck the Eagles."

5.23 During this 2012 football season, the current squad of cheerleaders, which includes the Plaintiff Cheerleaders, decided to begin including an inspiring message, expressed from a religious viewpoint, on each run-through banner as a way to express their positive encouragement and well wishes to the athletes and fans.

5.24 The cheerleaders decided positive expressions would serve as a model of good sportsmanship, and would be preferable over the typical derogatory language that is customarily seen on other run-through banners.

5.25 As adherents of the Christian faith, the Plaintiff Cheerleaders hold a sincere religious belief concerning the expression of their Christian faith on the banners, as a means of following the admonitions and tenets of their faith.

5.26 Prohibiting the Plaintiff Cheerleaders from expressing their sincerely held religious beliefs on the banners substantially burdens their religious beliefs and practice.

5.27 Banners including various encouraging messages from a religious viewpoint, selected solely by the Plaintiff Cheerleaders and painted by their own hands, were used at the first three Kountze High School varsity football games this season, on August 31, September 7, and September 14.

5.28 Plaintiff Cheerleaders created and used similar, run-through banners this season at various other high school sporting events, and will again in the future.

5.29 Plaintiff Cheerleaders have received many positive comments and public encouragement for their run-through banners and display of good sportsmanship by athletes and fans of both the home and opposing teams, and they

have not received any complaints about the run-through banners from any individual.

5.30 Plaintiff Cheerleaders have created for upcoming football games other similar run-through banners including religious messages, and Plaintiff Cheerleaders intend to create and use additional run-through banners of this kind for each football game this season, and for various other sporting events now and in the future.

***C. Defendants' Unlawful Restriction of Plaintiff Cheerleaders' Speech***

5.31 On September 18, 2012, a school administrator made an announcement, during school hours, on the Kountze High School intercom system, that the cheerleaders would henceforth be prohibited from including their private religious messages on the run-through banners.

5.32 Upon information and belief, Defendant Weldon instructed this school administrator to make the intercom announcement.

5.33 By making the announcement and issuing this directive, Defendants are seeking to censor and/or exclude Plaintiff Cheerleaders' private religious speech in an unconstitutional manner.

5.34 Defendants have not restricted any other content, viewpoint, or subject matter, or any other students' speech, nor issued similar directives regarding other students' banners, displays, or artwork.

5.35 As a result of this directive and actions, Plaintiff Cheerleaders are upset and fearful of adverse disciplinary action by Defendants and other school officials if they disobey the directive.

5.36 As a result of Defendants' directive and actions, Plaintiff Cheerleaders have had their free speech and religious exercise chilled.

5.37 The Defendants' directive and actions constitute a discriminatory policy and practice of KISD.

5.38 Upon information and belief, Defendant Weldon has conspired with at least one other school official or individual to deny Plaintiffs their rights to free speech, free exercise of their religion, and equal protection of the law.

5.39 Because of Defendants' intimidation, censorship, and deliberate indifference to the law and Plaintiffs' and others' constitutional rights, Plaintiffs and others suffered irreparable damage and were chilled in the exercise of their fundamental rights.

5.40 Defendants' intimidation, censorship and deliberate indifference to the law is a substantial burden on the free exercise of Plaintiffs' religion, and inhibits their fundamental rights to freely express their religious faith.

#### ***D. Necessity for Injunction***

5.41 At the Kountze High School varsity football games scheduled for this year, Plaintiff Cheerleaders and their fellow cheerleaders desire and intend to make

and use their handmade run-through banners that include inspiring messages expressed from a religious viewpoint.

5.42 The customs, practices and stated policies and directives of Defendants specifically prohibit this form of free speech and religious expression.

5.43 Thus, the Constitutional and statutory rights of the Plaintiffs are being violated by Defendants and their officials, and Plaintiffs will suffer additional, immediate, irreparable injury if this Honorable Court does not grant a Temporary Injunction.

**VI. FIRST CAUSE OF ACTION  
TEXAS CONSTITUTION – ARTICLE I, SECTION 6**

6.1 Plaintiffs reincorporate and adopt by reference for all purposes each and every allegation contained in the preceding paragraphs and sections.

6.2 Defendants have deprived and continue to deprive Plaintiffs of their rights to the free exercise of religion, as secured by article I, section 6 of the Constitution of Texas, by discriminating against Plaintiffs and by inhibiting their rights to freely exercise their religious faith.

6.3 Plaintiffs have no adequate remedy at law to correct the continuing deprivations of their constitutional rights by the Defendants' actions in violation of the Texas Constitution.

**VII. SECOND CAUSE OF ACTION:  
TEXAS CONSTITUTION – ARTICLE 1, SECTION 8**

7.1 Plaintiffs reincorporate and adopt by reference for all purposes each and every allegation contained in the preceding paragraphs and sections.

7.2 Defendants have deprived and continue to deprive Plaintiffs of their rights to free speech, as secured by article I, section 8 of the Constitution of Texas, by discriminating against Plaintiffs and by inhibiting their rights to free speech.

7.3 Defendants' prohibition of Plaintiff Cheerleaders' use of banners or items containing a message from a religious viewpoint violates article I, section 8 of the Constitution of Texas.

7.4 Plaintiffs have no adequate remedy at law to correct the continuing deprivations of their constitutional rights by the Defendants' actions in violation of the Texas Constitution.

### **VIII. THIRD CAUSE OF ACTION: TEXAS CONSTITUTION – ARTICLE I, SECTION 3**

8.1 Plaintiffs reincorporate and adopt by reference for all purposes each and every allegation contained in the preceding paragraphs and sections.

8.2 Defendants have deprived and continue to deprive Plaintiffs of their rights to equal protection under the law, as secured by article I, section 3 of the Constitution of Texas, by discriminating against their expression solely because their expression is religious in nature.

8.3 Plaintiffs have no adequate remedy at law to correct the continuing deprivations of their constitutional rights by the Defendants' actions in violation of the Texas Constitution.

**IX. FOURTH CAUSE OF ACTION:  
TEXAS CIVIL PRACTICE AND REMEDIES CODE –  
Chapter 106, Discrimination Because of Religion**

9.1 Plaintiffs reincorporate and adopt by reference for all purposes each and every allegation contained in the preceding paragraphs and sections.

9.2 Section 106.001, *et seq.*, of the Texas Civil Practice and Remedies Code provides that an employee of a political subdivision of the state may not, because of a person's religion, "refuse to permit the person to use facilities open to the public," "refuse to grant a benefit to the person," and/or "impose an unreasonable burden on the person."

9.3 Defendants' prohibition of Plaintiff Cheerleaders' use of banners or items containing a message from a religious viewpoint violates this statute.

9.4 Plaintiffs have no adequate remedy at law to correct the continuing deprivations of their constitutional rights by the Defendant's actions in violation of the Texas Constitution.

**X. FIFTH CAUSE OF ACTION:  
TEXAS CIVIL PRACTICE AND REMEDIES CODE –  
Chapter 110, Violation of the Texas Religious Freedom Restoration Act**

10.1 Plaintiffs reincorporate and adopt by reference for all purposes each and every allegation contained in the preceding paragraphs and sections.

10.2 Section 110.001 *et seq.* of the Texas Civil Practice & Remedies Code provides that a “governmental agency may not substantially burden a person’s free exercise of religion.” The Defendants’ actions constitute a substantial burden on Plaintiffs’ free exercise of religion.

10.3 Because Defendants’ policy will cause imminent harm to Plaintiffs and there was not adequate time to provide notice, to section 110.006(b), Plaintiffs are not required to provide written notice to Defendants before commencing legal action.

10.4 Plaintiffs have no adequate remedy at law to correct the continuing deprivations of their constitutional rights by the Defendants’ actions in violation of the Texas Constitution.

**XI. SIXTH CAUSE OF ACTION:  
THE TEXAS EDUCATION CODE –  
Chapter 25, Subchapter E, Student Expression of Religious Viewpoints**

11.1 Plaintiffs reincorporate and adopt by reference for all purposes each and every allegation contained in the preceding paragraphs and sections.

11.2 Section 25.151 states that “[a] school district shall treat a student’s voluntary expression of a religious viewpoint, if any, on an otherwise permissible subject in the same manner the district treats a student’s voluntary expression of a

secular or other viewpoint on an otherwise permissible subject and may not discriminate against the student based on a religious viewpoint expressed by the student on an otherwise permissible subject.”

11.3 Section 25.152 provides that school districts shall adopt a policy establishing limited public forums for student speakers at all school events. It further provides that the school policy must create the forum so that it does “not discriminate against a student's voluntary expression of a religious viewpoint, if any, on an otherwise permissible subject.” Subsection (c) states that: “Student expression on an otherwise permissible subject may not be excluded from the limited public forum because the subject is expressed from a religious viewpoint.”

11.4 Plaintiffs have no adequate remedy at law to correct the continuing deprivations of their constitutional rights by the Defendants' actions in violation of the Texas Constitution.

## **XII. DECLARATORY ACTION RELIEF**

12.1 Plaintiffs reincorporate and adopt by reference for all purposes each and every allegation contained in the preceding paragraphs and sections.

12.2 Plaintiffs seek a declaration from the Court, under Chapter 37 of the Texas Civil Practice and Remedies Code, that the conduct and actions of Defendants as described violate state law.

12.3 Plaintiffs seek the recovery of attorneys' fees under sections 37.009, 106.002(b), and 110.005(a)(4) of the Texas Civil Practice and Remedies Code.

### **XIII. EQUITABLE RELIEF – INJUNCTION**

13.1 Plaintiffs reincorporate and adopt by reference for all purposes each and every allegation contained in the preceding paragraphs and sections.

13.2 Plaintiffs seek temporary and permanent injunction enjoining Defendants, their agents, employees, and all other persons acting in active concert with them or any of them from: prohibiting Plaintiffs from including religious language, messages, or viewpoints on the banners they create on their own for use at school sporting events; prohibiting Plaintiffs' private religious speech; prohibiting Plaintiffs' free exercise of religion; and ordering Defendants to immediately cease enforcement of all discriminatory actions, customs, practices and policies. This injunctive relief is requested under to sections 106.002(a) and 110.005(a)(2) of the Texas Civil Practice and Remedies Code.

### **XIV. ACTUAL DAMAGES**

#### **A. Actual Damages**

14.1 As a direct and proximate result of the acts and omissions of Defendants set forth above, Plaintiffs have incurred damages in excess of the minimum jurisdictional limits of this Court.

14.2 Section 110.005 of the Texas Civil Practice and Remedies Code provides that Plaintiffs may recover compensatory damages.

14.3 Plaintiffs claim damages in such amounts as the evidence may show proper at the time of trial, in excess of the minimum jurisdictional limits of this Court, not to exceed \$1,500.

**B. Attorneys' Fees**

14.4 Plaintiffs have been required to employ the services of the undersigned attorneys to bring this action. By virtue of Defendants' conduct as alleged above, an award of reasonable attorneys' fees to Plaintiffs is recoverable under to sections 37.009, 106.002(b), 110.005(a)(4), of the Texas Civil Practice and Remedies Code.

14.5 Plaintiffs request a temporary injunction until final hearing, at which time a permanent injunction should be granted.

HAVING CONSIDERED THESE PREMISES, Plaintiffs request that the Court issue a temporary injunction and a permanent injunction, restraining and enjoining Defendants and their agents and any persons acting in concert with them from any further actions intended to disrupt or prevent the Plaintiffs from displaying their banners at sporting events, and/or censoring their religious messages.

Plaintiffs further request that Defendants be cited to appear and answer, and that upon final trial, Plaintiffs have and recover:

1. judgment against Defendants, for Plaintiffs' damages in an amount in excess of the jurisdictional limits of this Court;
2. reasonable attorneys' fees;
3. pre-judgment interest as allowed by law;
4. post-judgment interest as allowed by law;
5. all court costs; and
6. such other and further relief to which Plaintiffs may be justly entitled.

Respectfully submitted,

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\*Application *pro hac vice* pending.

## VERIFICATION

STATE OF TEXAS  
COUNTY OF HARDIN

BEFORE ME, the undersigned authority on this day personally appeared BETH RICHARDSON, who being by me duly sworn under oath stated as follows:

1. My name is Beth Richardson. I am over eighteen (18) years of age, and am fully competent to make this Affidavit.
  2. I have read paragraphs 1.1 through 14.5 of Plaintiffs' First Amended Petition, Application for Temporary Injunction, and Application for Permanent Injunction, and I have personal knowledge of the factual allegations stated therein and each of such factual allegations is true and correct.

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## BETH RICHARDSON

SUBSCRIBED AND SWORN TO BEFORE me on the \_\_\_\_ day of  
\_\_\_\_\_, 2012, to certify which witness my hand and official seal or office.

## Notary Public, State of Texas

## My Commission Expires: